

LITTLE HOOVER COMMISSION

A REVIEW OF GOVERNMENT REORGANIZATION PLAN NO. 2

Recommendation to the Legislature

May 2012



Little Hoover Commission

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To Promote Economy and Efficiency

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five public members appointed by the Governor, four public members appointed by the Legislature, two senators and two assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives....

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

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This report is available from the Commission's Web site.



State of California

LITTLE HOOVER COMMISSION

May 22, 2012

The Honorable Edmund G. Brown, Jr.
Governor of California

The Honorable Darrell Steinberg
President pro Tempore of the Senate
and members of the Senate

The Honorable Robert Huff
Senate Minority Leader

The Honorable John A. Pérez
Speaker of the Assembly
and members of the Assembly

The Honorable Connie Conway
Assembly Minority Leader

Dear Governor and Members of the Legislature:

The Little Hoover Commission recommends that the Legislature allow Government Reorganization Plan No. 2 to go forward.

The plan represents a first step in the much-needed restructuring of California state government and improves clarity, organization and accountability by eliminating agencies, forming new agencies around better focused missions, and bringing more state activities under agency structures for greater administrative efficiency.

The state government's ability to adapt to California's current economy, high unemployment and revenue shortfalls is hobbled in part by archaic organizational structures created for needs that no longer exist. By grouping like activities together, agency and department leaders can identify and eliminate duplication, but more important, better organize departments around the tasks of improving program outcomes. The steps outlined in this reorganization must be starting points for further restructuring to ensure that California's state government meets modern needs in the most efficient manner possible. Successfully implementing these changes to produce demonstrably improved results will require putting leaders with strong management and communications skills in place and supporting their efforts to drive change.

California's reorganization statute gives considerable deference to the Governor in organizing the executive branch. This is both appropriate and essential to efficient management.

The Commission held three days of hearings on the plan on April 23, 24 and 25, 2012, in Sacramento. The Commission reviewed written testimony as well as comments submitted by members of the public. The Commission based its recommendation on this testimony, as well as written and oral comments, interviews with experts and stakeholders and the Commission's previous work in relevant areas. In addition, the Commission held three public meetings, on April 25, May 11 and May 22, 2012 to develop and discuss its report and recommendation to the Legislature.

Over the course of its review, the Commission heard from hundreds of people, many of whom expressed concern about various aspects of the reorganization. In large part, their concerns reflected a natural anxiety about change. These concerns should be acknowledged, and responded to as the plan moves forward.

The Commission, however, also heard more substantive concerns around the need to preserve independence and oversight that merit further attention from the Legislature. Foremost among them is the concern that the proposed relocation of the Delta Stewardship Council into the Natural Resources Agency could appear to weaken its independence at a crucial time. This fear reflects the high degree of suspicion and distrust surrounding water issues in California, the council's relative newness and the fact that it is working on final drafts of the Delta Plan.

The Delta Stewardship Council was created as an independent body to insulate it as much as possible from political pressures, and to allow it to evaluate whether the actions by various state and local government entities are consistent with the Delta Plan and meet state and federal laws. The council cannot do so at the same time it resides in the same agency as some of these entities. The Commission recommends that in allowing the Government Reorganization Plan No. 2 to go forward, that the Governor and the Legislature develop concurrent legislation that will allow the Delta Stewardship Council to retain its independence.

This plan represents a good first step rather than a prescription for specific cost savings. But its ambitions will be achieved only if the next steps are taken. These steps should include setting goals, strategic planning and developing performance metrics. As part of this process, the administration should develop detailed implementation plans as part of the budget by January 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Hancock", written in a cursive style.

Daniel Hancock,
Chairman

A REVIEW OF GOVERNMENT REORGANIZATION PLAN NO. 2

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Executive Summary

The Little Hoover Commission supports Governor Edmund G. Brown, Jr.'s Government Reorganization Plan No. 2 and recommends that the Legislature allow the plan to go forward. The plan represents an important and essential first step toward a larger restructuring of California state government to make it more effective, efficient and transparent by improving coordination and communication between departments

The plan comes to the Commission at a critical time in the state's history. Several years of short-term budget fixes have failed to address the state's fundamental need to change the way it operates to match expenses to revenues. The Governor's proposal creates clarity to start that process, reducing the total number of state agencies to 10 from 12 by eliminating two agencies. The plan also reorganizes departments into three new agencies that can better focus on specific missions by bringing together similar departments in the Transportation Agency, the Business and Consumer Services Agency and the Government Operations Agency. In other changes, the plan proposes consolidating departments within the Department of Consumer Affairs and creating a new Department of Business Oversight by combining the Department of Corporations and the Department of Financial Institutions.

California's reorganization statutes give considerable deference to the Governor as the state executive to make changes in the structure of the executive branch to improve efficiency, a deference noted in the Constitution as well. The Commission recognizes this prerogative as both appropriate and essential to good management.

The question before the Commission, and now the Legislature, is not whether the plan is perfect. The Commission's job is to consider whether the plan promotes greater efficiency and improves services to the public and thus warrants further analysis and action on the part of the Legislature. In making its recommendation, the Commission believes that this plan shows promise. We do not have the luxury of seeking perfection, or letting that search become the enemy of a good first step.

Because of the size of the plan, it does not contain the level of detail some may wish to see. This consideration leads us to recommend that the Legislature monitor implementation of the reorganization through its

traditional budget oversight role. In addition, the Commission will also monitor and report on implementation of the reorganization as part of our regular follow-up responsibilities. With these commitments to ongoing oversight, we now undertake a broader evaluation of the plan's stated goals and potential, informed by testimony from witnesses and written comment the Commission has read and weighed.

The Commission finds that the reorganization of departments in the three new agencies is potentially valuable and should encourage more collaboration and innovation by improving communication and cooperation among departments.

Importantly, it should set the stage for agency secretaries and department directors to better manage their operations.

The Commission took a hard look at comments it received in addition to the testimony it solicited. Much of what the Commission heard centered around the fear of a diminution in the power or prestige of a particular department or agency or of its top officer through a consolidation or combination. There also were concerns expressed about the potential loss of independence. Such concerns merit notice, as perceptions matter, and the witnesses' comments speak to the public's concern as to whether state agencies can be honest brokers and remain faithful to their core mandates. As the plan is developed, the administration should extend its outreach to address these concerns.

Recognizing this, the Commission also acknowledges that change is difficult and often disruptive. However imperfect or inefficient our existing bureaucracies are, stakeholders and our civil servants learn to work within these existing frameworks as best they can. During implementation, their input should be solicited and considered.

The sheer size of the proposal will put a premium on leadership as well as communication both in agencies and departments and between the administration and the Legislature. The Commission urges the timely appointment of top agency and department personnel to maintain the reorganization's momentum and to minimize transition pains.

As next steps, the Governor must set easily communicated goals and specific tasks to be accomplished by these new agencies and reorganized departments, as well as a timetable for meeting them. In the best case, the Governor also would develop performance measurements to gauge progress. In testimony to the Commission, the Governor's Office and agency secretaries said that actual cost savings and workforce efficiencies should not be expected in the short term as a result of this reorganization. The Commission recognizes that reorganizations can

take time to gel, particularly in times of fiscal uncertainty. In monitoring this reorganization's progress, the Commission will look for how agencies and departments focus their missions and priorities and align their activities to improve program outcomes.

Introduction: The Reorganization Process

California law gives the Governor the authority to periodically reorganize state government in the interest of improving efficiency and the management of government programs, eliminating duplication and reducing expenditures.¹ The state Constitution recognizes the special status of this authority, singling it out for comment. California's Government Code further details this authority in statute, in the process highlighting both the opportunity and obligation it creates to use it to improve state government.

The statute is broad in scope, allowing the Governor to reduce the number of state agencies through consolidating those with similar functions and eliminating those whose functions are no longer necessary to the efficient operation of state government. It also allows the creation of new agencies to better group departments with related missions.

The reorganization statutes implicitly acknowledge that as California changes, state government must change to respond to new needs and conditions. Functions once performed by the state may no longer be necessary, or can be performed better by another level of government and the constitution and statute recognize that the Governor is uniquely responsible for and positioned to assess the changing conditions and institute the necessary changes.

California law recognizes both that the public interest is served by reorganizations that improve efficiency and reduce duplication, and that such reorganizations can be done more quickly and effectively through the process set by California's reorganization statutes than through enacting specific legislation.

Such plans are limited to departments and agencies that are in the executive branch. Excluded are agencies that report primarily to the Legislature, or to the judicial branch or to agencies administered by separately elected officials.

The reorganization process authorizes the Governor to propose a plan, for the Little Hoover Commission to review that plan, and for the

***California Constitution:
Article V, Section 6***

Authority may be provided by statute for the Governor to assign and reorganize functions among executive officers and agencies and their employees, other than elective officers and agencies administered by elective officers.

Legislature to either allow the plan to go into effect, or to reject it by a majority vote in either house.

The statute provides a specific timeline. The Governor must give the plan to the Commission for study and recommendation for 30 days prior to presenting the plan to the Legislature. In this case, Government Reorganization Plan No. 2 was presented to the Commission on March 30, 2012. The plan was submitted to the Legislature on May 3, 2012. Once the plan has been presented to the Legislature, the Commission has 30 days in which to deliver its report to the Legislature. The Legislature has 60 days from the day it receives the plan to reject it, or the plan automatically becomes law. The Legislature may reject it by resolution adopted by the Senate or the Assembly. The proposed plan, if not rejected, becomes effective July 3, 2012.

In conducting its review of Government Reorganization Plan No. 2, the Commission held a series of public hearings over three days from April 23 to April, 25, 2012; a list of witnesses is in Appendix C. The Commission also received written testimony, interviewed experts and reviewed analyses of the departments involved, including its own previous work when relevant.

Noting the constitutional and statutory authority given to the Governor regarding the ability and obligation to reorganize state government to improve efficiency and eliminate duplication, the Commission gives certain deference to the state's chief executive to organize government in a legally appropriate manner according to his vision for running programs and delivering services to Californians.

The Reorganization Statute

Government Code Section 12080.1. The Governor, from time to time, shall examine the organization of all agencies and shall determine what changes therein are necessary to accomplish one or more of the following purposes:

- (a) To promote the better execution of the laws, the more effective management of the executive and administrative branch of the state government and of its agencies and functions and the expeditious administration of the public business;
- (b) To reduce expenditures and promote economy to the fullest extent practicable consistent with the efficient operation of the state government;
- (c) To increase the efficiency of the operation of the state government to the fullest extent practicable;
- (d) To group, consolidate and coordinate agencies and functions thereof as nearly as possible according to major purposes;
- (e) To reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient operation of the state government;
- (f) To eliminate overlapping and duplication of effort.

The Reorganization Plan

Government Reorganization Plan No. 2 creates three new agencies by relocating departments in three existing agencies with the goal of grouping like functions more closely together, reducing the number of agencies from 12 to 10 overall. It also outlines a series of other moves, more than two dozen in total, many of which previously were disclosed in the Governor's January budget proposal. In the aggregate, the reorganization plan is one of the largest in scope ever proposed, covering a broad sweep of government activity.

The new agencies are the Transportation Agency, the Government Operations Agency and the Business and Consumer Services Agency.

The Transportation Agency pulls in transportation-related activities from the Business, Transportation and Housing Agency, which would be eliminated, and adds the California Transportation Commission and the High-Speed Rail Authority, which are currently stand-alone boards.

The Government Operations Agency consolidates state services operations into a single agency, most of which had been located in the State and Consumer Services Agency, which would be eliminated. The new agency unites departments that are involved in running the enterprise of state government, providing a single focus on state services. As part of the change, the California Technology Agency would become a department within the new agency.

The new Business and Consumer Services Agency would relocate business-related departments currently in the Business, Transportation and Housing Agency, where they join consumer-related departments currently in the State and Consumer Services Agency.

The plan recasts the California Volunteer Agency as a unit within the Governor's Office of Planning and Research and makes the California Emergency Services Agency an Office of Emergency Services reporting directly to the Governor.

The Governor's Office of Economic Development, or GO-Biz, would be bolstered through the addition of the Office of Tourism, the California Film Commission, the Infrastructure and Economic Development Bank,

the California Small Business Development Centers and the Small Business Loan Guarantee Program.

Separately, the Governor's plan proposes moving several currently independent boards and commissions under agency structures. In addition to the relocations of the California Transportation Commission and the High-Speed Rail Authority into the new Transportation Agency, the plan proposes:

- Moving the Delta Stewardship Council into the Natural Resources Agency.
- Moving the Public Employment Relations Board into the Labor and Workforce Development Agency.
- Moving certain licensing functions of the California Gambling Control Commission into the Department of Justice's Bureau of Gambling Control.
- Creating an Office of Exposition Park that would oversee the California Science Center and the African American Museum as well as the Office of Park Management. These activities are currently located in the State and Consumer Services Agency and would be moved as a group to the Natural Resources Agency.
- Moving the Board of Chiropractic Examiners into the Business and Consumer Services Agency.
- Moving the California Horse Racing Board into the Business and Consumer Services Agency.
- Moving the Building Standards Commission from the State and Consumer Services Agency to the Department of General Services in the new Government Operations Agency.
- Moving Alcoholic Beverage Control Appeals Board to the Business and Consumer Services Agency.

In another set of changes, the reorganization plan proposes combining existing departments into new departments or merging them into existing departments. These changes include:

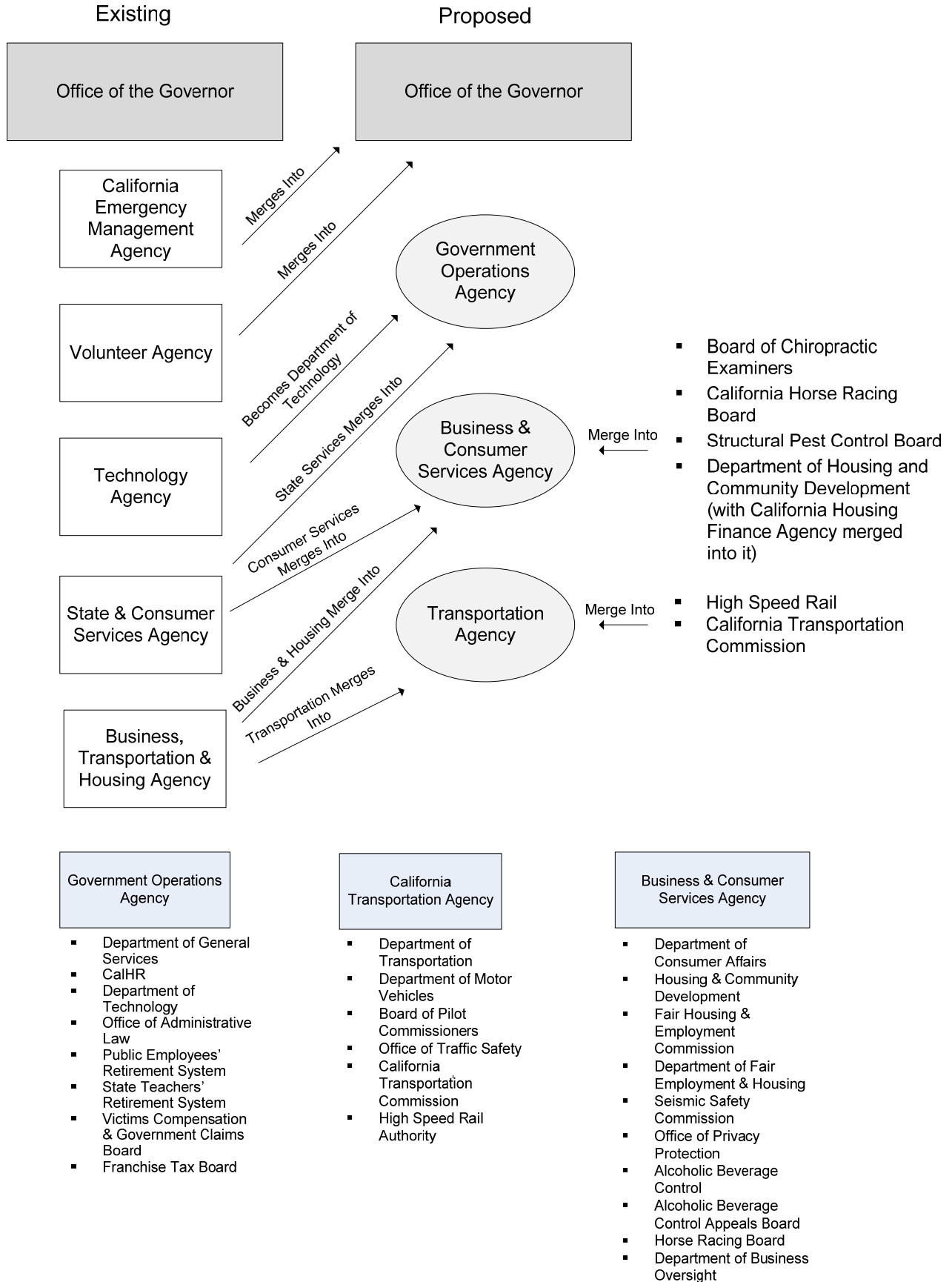
- Recasting the Department of Real Estate and the Office of Real Estate Appraisers as bureaus in the Department of Consumer Affairs.
- Merging the Department of Corporations and the Department of Financial Institutions into a new Department of Business Oversight, in the process creating separate bureaus for financial institutions and corporations.

- Merging the California Housing Finance Agency into the Department of Housing and Community Development.
- Merging the Department of Boating and Waterways into the Department of Parks and Recreation and eliminating the Boating and Waterways Commission.

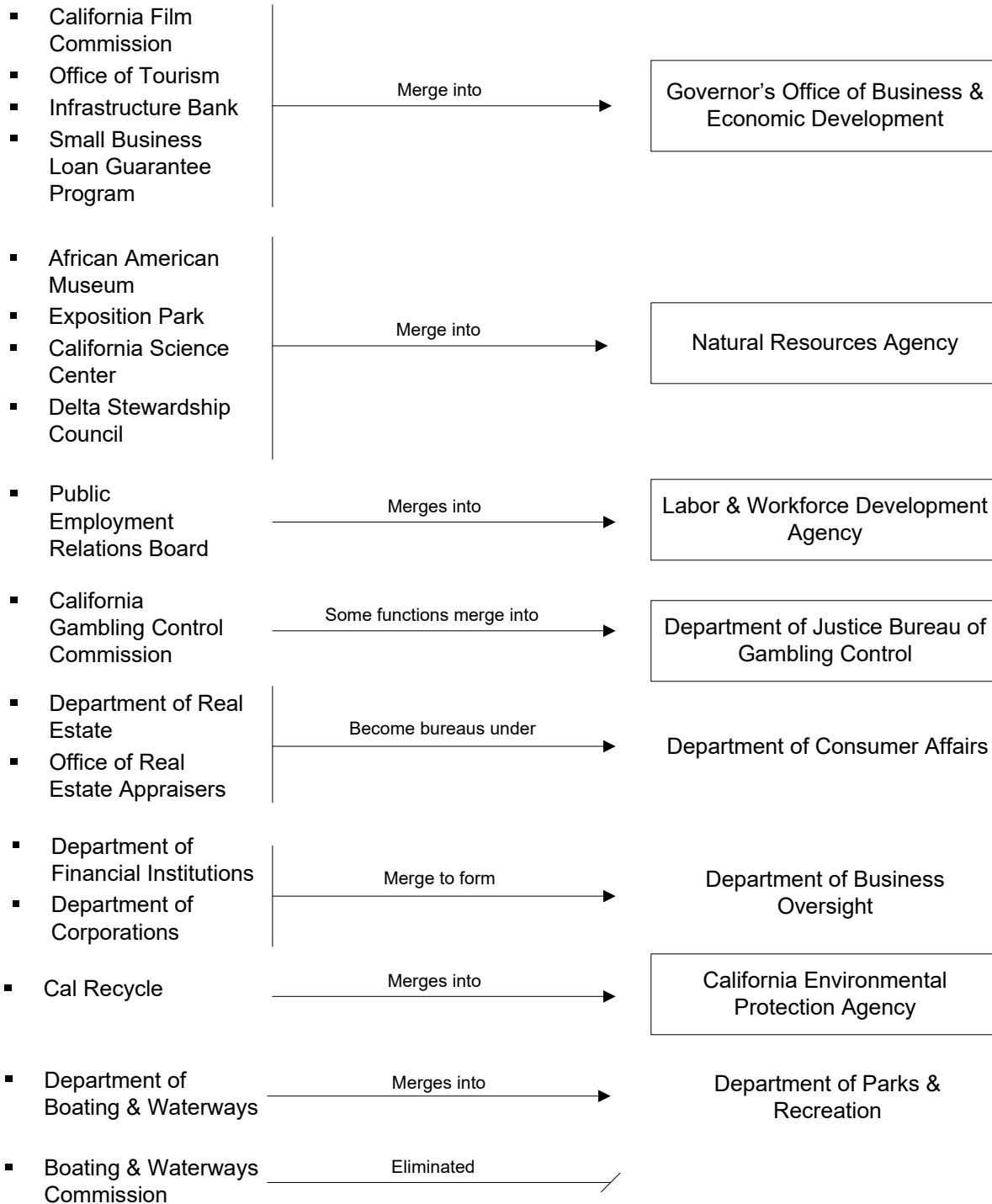
The plan calls for relocating the Structural Pest Control Board to the Department of Consumer Affairs in the Business and Consumer Services Agency, where it had resided prior to its 2009 move to the Department of Pesticide Regulation in the California Environmental Protection Agency.

The plan also proposes moving CalRecycle from the Natural Resources Agency to the Environmental Protection Agency. CalRecycle was formed through the 2010 merger of the Integrated Waste Management Board, then in the Environmental Protection Agency, and the Division of Recycling in the Natural Resources Agency's Department of Conservation.

**Proposed Changes in State Executive Branch Structure
in Government Reorganization Plan No. 2**



Proposed Changes in State Executive Branch Structure



Source: Governor's Office. March 30, 2012. Government Reorganization Plan No. 2.

Discussion of the Plan

The Commission endorses the creation of the Transportation Agency, the Business and Consumer Services Agency and the Government Operations Agency and sees great merit in collecting these functions in the structures proposed in the reorganization plan. In its previous work, the Commission has learned that such reorganizations can bring a new focus to a policy issue and create energy around a specific government initiative. Certainly the Transportation Agency provides this prospect, as does the Government Operations Agency, discussed further in this report. A good structure is but one determinant of performance, however, and achieving the Governor's goals for the reorganization will rely on focused and communicative leadership as well.

Other areas of the plan involve relocations and combinations that are more complex. The changes raised concerns from witnesses and stakeholders that fell into three main categories:

- **On Independence:** The Commission heard concerns about the potential for the loss of independence of stand-alone commissions or boards moved under agency structures. The Commission has seen where stand-alone commissions and boards have functioned very well, such as the California Transportation Commission, providing transparency and efficiency while still being accountable to their members' various appointing powers, in the process, serving California well. The Commission also has seen independent boards that, either through poor structural design or appointments, are weak and ineffective, and as a result fail to deliver efficiency or provide oversight. The Commission would like to stress the importance of maintaining the independence of the Transportation Commission and the Delta Stewardship Council, as well as the need for the state's Chief Information Officer to maintain direct communication to the Governor.
- **On mergers of departments and potential loss of specific expertise:** The Commission notes concerns about losing specialized legal expertise in subject areas where departments with different functions are merged, particularly in the creation of the Department of Business Oversight through the combination of the Department of Financial Institutions and the Department of Corporations; the merger of the Department of Real Estate into the Department of Consumer Affairs and in the shift of some

administrative auditing functions from the California Gambling Control Commission to the Justice Department's Bureau of Gambling Control. Such expertise represents significant human capital for the state and people of California.

- **On funds held by various departments that were to be merged into other departments:** The Commission heard concerns about the disposition of funds held in accounts by departments that were to be merged into another department. This point was raised by professionals licensed by state departments that were supported by license fees, such as the Department of Financial Institutions, as well as by boaters, yacht clubs and marina operators who paid registration fees as well as fuel taxes, some of which is apportioned to the Department of Boating and Waterways.

The Commission questioned the Governor's executive secretary for administration, legal affairs and policy, Jim Humes, and other administration officials about these concerns at different points during two and a half days of hearings. Mr. Humes acknowledged that such concerns had been raised and articulated the administration's positions in comments reiterated by other senior administration officials:

- **On Independence:** The movement of commissions and boards into agency structures, such as the California Transportation Commission, the Delta Stewardship Council and the Board of Chiropractic Examiners, is designed to increase administrative efficiencies and communication, allowing the commission to take advantage of legal, administrative or personnel staff of a larger entity. Mr. Humes said that under the plan, commissions and boards would retain their autonomy in setting and implementing policy, and pointed to such entities as the California Coastal Commission, the California Energy Commission, the Air Resources Board and the State Water Resources Control Board as successfully demonstrating that boards can maintain policy independence within an agency structure.
- **On mergers of departments and potential loss of specific expertise:** In the short term, Mr. Humes said, such combinations are aimed at increasing the sharing of administrative and other services and planning for how functions will be staffed has not been done. Other administration officials said that the reorganization will unite similar functions under a single management structure, but no plans have been made to integrate staffs of lawyers with different sets of special expertise. In the case of the Justice Department's Bureau of Gambling Control taking on administrative audit and licensing tasks currently done by the California Gambling Control Commission,

the commission staff conducting these tasks will be transferred to the Justice Department.

- **On funds held by various departments that were to be merged into other departments:** Mr. Humes said that any funds that had been vulnerable to being swept for other purposes before the reorganization would remain so vulnerable and funds that were protected would retain that protection. California statute bars restricted funds from being used for other purposes, and the Government Code covering reorganization plans emphasizes that transferred fund balances can be used only for the purpose for which they were initially appropriated.²

At an organizational level, reorganization can create uncertainty and confusion in the short run as people adjust to new roles and new ways of doing things. This puts a premium on leadership and clarity in communicating goals and mission – to employees, to the Legislature and to the public.

The Commission urges the Governor and the Legislature to work together on certain aspects of this plan, discussed in the following report, to make it even better.

New Structures for New Challenges

The biggest moves in terms of rethinking the business of managing state operations are the creation of three new agencies and the consolidation of previously dispersed economic development activities into the Governor’s Office of Economic Development, or GO-Biz. The moves are not complicated conceptually, and do not appear to present significant integration issues, yet they create the potential to bring far greater policy coordination and cohesion.

The Transportation Agency

Government Reorganization Plan No. 2 eliminates the Business, Transportation and Housing Agency and creates a new California Transportation Agency, consolidating seven entities into one agency that will focus solely on California’s transportation system, the largest and most complex transportation system in the nation. Government entities currently grouped within the Business, Transportation and Housing Agency that would become part of the new Transportation Agency include:

- Department of Transportation (Caltrans)
- Department of Motor Vehicles (DMV)

- California Highway Patrol (CHP)
- Board of Pilot Commissioners
- Office of Traffic Safety

The Office of Traffic Safety, which in 2011-12 will distribute approximately \$76 million in federal traffic safety grants to state and local government organizations, would be located within the Office of the Secretary of the new Transportation Agency, which avoids any undue influence of placing the organization within any of the other state transportation departments that receive grant money.³

As proposed by the plan, two currently independent organizations would be under the umbrella of an agency:

- California High-Speed Rail Authority
- California Transportation Commission

Having a cabinet-level secretary with a singular focus on transportation policy and accountable directly to the Governor provides an opportunity for the state to address urgent transportation issues that are currently unresolved, particularly how the state will pay for the preservation, maintenance and expansion of a transportation system that is critical to the quality of life for Californians and to the state's economy. In written testimony to the Commission, former Department of Transportation Director Will Kempton said the consolidation would "draw the state's major transportation activities into a single agency with shared goals and objectives and provides an opportunity to deliver important services to

the people of California in a more efficient manner."⁴ Another expert said it seems logical to have Caltrans, the High-Speed Rail Authority and the California Transportation Commission in an agency – that the likely benefits far outweigh any potential threats.⁵

In testimony to the Commission, Brian Kelly, the acting secretary of the current Business, Transportation & Housing Agency, pointed to a recent report that identified a nearly \$300 billion funding gap for transportation infrastructure over the next 10 years. Although the reorganization plan does not resolve

Transportation Needs Assessment

The recent California Transportation Commission-led assessment of the statewide transportation system estimated that the total cost of all system preservation, management and expansion projects for 2011 through 2020 is nearly \$538.1 billion. The total estimated revenue for the 10-year study period is \$242.2 billion, just 45 percent of the estimated costs, a shortfall of \$297.7 billion. At present, nearly \$15 billion of the \$20 billion in bond money authorized by California voters through Proposition 1B in 2006, a transportation bond that was part of a package of strategic growth bond measures initiated by Governor Arnold Schwarzenegger and the Legislature, has been spent or committed to projects.

Source: California Transportation Commission. November 2011. "Statewide Transportation System Needs Assessment: Final Report." Also, California Bond Accountability Web site, <http://www.bondaccountability.dot.ca.gov/bondacc/>. Accessed May 2, 2012.

the shortfall, having a cabinet secretary focused on transportation will be critical to addressing this challenge, Mr. Kelly said.

The new California Transportation Agency, led by a cabinet-level secretary, has the potential to focus on and develop long-term solutions to the state's funding shortfall for its transportation system.

In its January 2010 report, *Building California: Infrastructure Choices and Strategy*, the Commission recognized the looming fiscal shortfall for California's infrastructure needs, including transportation, and recommended that California step forward in its thinking and approach to paying for and delivering infrastructure. The Commission specifically recommended the Governor and Legislature explore alternatives to General Obligation bonds to fund infrastructure investments, including user fees and special taxes. It also recommended making better use of existing infrastructure assets and reducing the need to build new infrastructure by incorporating demand management strategies.

Local government officials questioned whether separating housing activities from transportation activities would complicate compliance with SB 375 (Steinberg), which requires the Air Resources Board to, among other things, work with California's Metropolitan Planning Organizations to align their regional transportation, housing and land use plans and prepare a "sustainable communities strategy" aimed at lowering the number of vehicle miles traveled in their regions.

Bringing the California High-Speed Rail Authority, currently an independent board, into the new Transportation Agency provides the potential for more efficient planning and better coordination between the rail authority and the California Department of Transportation's Division of Rail.

The Division of Rail manages and coordinates intercity rail passenger services. The Division of Rail manages two state-supported routes operated by Amtrak, and financially supports a third route. The

Strategic Growth Council

SB 375 and AB 32, California's Global Warming Solutions Act, have made important connections between transportation, energy, environmental goals, land use and housing. Some suggest the reorganization changes nothing internally and no barrier would prevent housing and transportation officials from working together at the state level now or in the future. Some local officials stated that any potential risks created by separating housing and transportation functions could be mitigated by bolstering the Strategic Growth Council. The council was created through SB 375 to better integrate transportation, land use and environmental goals and policies at the state level. The council coordinates state policies and activities for greenhouse gas reduction and sustainable regional planning. The Commission previously has recommended that policy-makers expand the council's role to include infrastructure planning that supports both economic growth and the state's environmental goals.

Source: Marty Wachs, Director, Transportation, Space and Technology, RAND Corporation. April 6, 2012. Personal communication. Also, Mike McKeever, Chief Executive Officer, Sacramento Area Council of Governments. April 27, 2012. Written testimony to the Commission. Also, Will Kempton, Chief Executive Officer, Orange County Transportation Authority. April 18, 2012. Written testimony to the Commission.

Department of Transportation is statutorily required to prepare the California State Rail Plan every two years, which includes an assessment of both passenger and freight train rail systems.⁶

Witnesses told the Commission that bringing the High-Speed Rail Authority into the Transportation Agency not only will encourage better coordination with the Caltrans rail programs, but also provides an opportunity for greater oversight of the relatively new authority. The authority has been enmeshed in controversy surrounding the route and total cost of the project, which has ranged from a low of \$33 billion to a high of nearly \$100 billion. On April 12, 2012, the authority adopted a revised business plan to provide high-speed rail service within a decade at an estimated cost of \$68.4 billion.⁷

By folding the High-Speed Rail Authority into the Transportation Agency, the state might have a better structure to set statewide transportation goals and develop statewide plans that embrace various transportation modes.

Government Operations Agency

The reorganization plan pulls state services agencies from the State and Consumer Services Agency and the Office of the Governor and would consolidate them into an agency that could focus exclusively on services provided to other state agencies and to state employees. The Building Standards Commission would move into the Department of General Services within the new agency. The departments included in the new agency would be:

- The Department of General Services
- The Department of Personnel Administration
- The State Personnel Board
- The Office of Administrative Law
- The California Public Employees' Retirement System
- The California Teachers' Retirement System
- The Victims Compensation and Government Claims Board
- Franchise Tax Board
- The Department of Technology, previously the California Technology Agency

The administration said that by consolidating these departments into a single agency, the state will be able to improve management and accountability, increase efficiency and promote better and more

coordinated operational decisions. The combination also is aimed at fostering statewide perspectives and the sharing of information, as well as “facilitate a culture of service, instead of control.”⁸

This last goal underscores the potential of this part of the reorganization to modernize state government operations.

The administration initiated this drive with its 2011 reorganization to merge certain functions of the Department of Personnel Administration and the State Personnel Board. The new Department of Human Resources, or CalHR, will officially begin operations July 1, 2012, but already it has reduced costs by 3 percent, according to the administration. More important, it has embraced the need to streamline the state’s personnel processes and to emphasize its role as a service provider to other departments.

This transition is essential as the state manages the departure of retirees and builds its future workforce, one that will need new skills and job classifications to take advantage of new technologies and face new challenges, as the Commission has previously noted.⁹ As the state workforce becomes smaller, and more work can be done in a virtual environment, the state will need to become more efficient, and it will need the tools and the training to do so. It likely will require less office space as well. The placement of the Department of General Services, together with CalHR and the State Personnel Board and the Department of Technology, should give the agency secretary the ability to better manage the enterprise of government, through procurement, information technology, hiring, training and workforce planning, the management of state properties and employee benefits.

Given the agency’s nexus of personnel management, training, procurement and information technology, it is a natural location for a focused initiative on performance management, where lessons learned can be adopted and evaluated for broader use across government. In this effort, the new agency should take advantage of the expertise and enthusiasm of the ad hoc Performance Management Council, a volunteer group of state managers who have been meeting for more than two years to discuss ways to improve and track state government performance.

The proposed Government Operations Agency is a logical place for the state’s information technology services to reside, given the fundamental role IT will play in putting these enterprise operations on a modern footing and its central role in tracking and measuring performance. The Government Operations Agency is the right place for this effort to start. The Commission has repeatedly emphasized the role of information technology in improving performance as well as noted the state’s

previous difficulties in getting large IT projects up and running. In earlier studies, the Commission has called for a cabinet-level Chief Information Officer and had supported Governor Schwarzenegger's 2009 reorganization that created the Office of the State Chief Information Officer and consolidated IT functions under the state CIO as well as subsequent legislation that created the California Technology Agency and elevated the state CIO to cabinet status.¹⁰ At that time, however, a Government Operations Agency did not exist and could not be considered as part of a solution to better integrate IT into state operations.

In testimony to the Commission, Carol Henton, vice president of TechAmerica, which represents technology companies that work with the public sector, said the proposed change in status for the secretary of the technology agency would isolate the department and information technology projects, increasing cost and decreasing efficiency and communication. Ms. Henton stressed the need for "someone who can have the full statutory authority to cut through the red tape, pull in other senior officials, [and] develop and implement a strategic vision for IT for the state."

Technology Agency Secretary Carlos Ramos said his authority to hold others accountable does not come from his title, but from what actions the state's technology leader takes in setting standards, in serving other departments and in closely monitoring new projects.

Though the administration made clear that the new director of the Department of Technology would remain the state Chief Information Officer, the Commission recommends that the Legislature address this issue by establishing a direct line of reporting to the Governor on matters related to the director's role as Chief Information Officer, much as the director of the Department of Personnel Administration reports directly to the Governor on collective bargaining issues.

Governor's Office of Business and Economic Development (GO-Biz)

The plan proposes to relocate the Infrastructure and Economic Development Bank (I-Bank), the California Film Commission, the Office of Tourism and the Small Business Guarantee Loan Program from the Business, Transportation & Housing Agency into the Governor's Office of Business and Economic Development (GO-Biz). The reorganization plan also proposes to move the California Small Business Development Centers into GO-Biz. The organizations and programs proposed to move into GO-Biz previously had been part of the Technology Trade and

Commerce Agency but were shifted to the Business, Transportation and Housing Agency when the Legislature eliminated the Technology, Trade and Commerce Agency through the 2003-04 Budget Act.

These moves are consistent with the Commission's previous recommendations, and the Commission endorses them as they should bolster the state's economic development efforts.

In a March 2011, letter responding to a request from Governor Brown on ways to reduce government waste and operate more efficiently, the Commission recommended that Governor Brown "continue to bolster the state's ability to foster economic development and create jobs by seeking ways to better coordinate and align economic development activities now located in different parts of government, including opportunities for reorganization."¹¹

The functions of the entities that would become part of GO-Biz are a natural fit for economic and business development. They are not physically relocating but are virtually becoming a part of GO-Biz, similar to what the Commission envisioned.

The I-Bank issues tax-exempt and taxable revenue bonds, providing low-cost, gap financing for capital costs and equipment. It has leveraged an initial investment from the General Fund of \$180 million into \$420 million in loans.¹² I-Bank programs target local government infrastructure projects, small manufacturing and processing businesses, and nonprofit corporations such as research institutes and museums. In testimony to the Commission, the executive director of the I-Bank said that "the best part of the reorganization from I-Bank's standpoint is the moving it out of an agency and up into the Governor's Office and in a

GO-Biz Prior Recommendations

In its 2010 report, *Making Up for Lost Ground: Creating a Governor's Office of Economic Development*, the Commission found that dismantling the Technology, Trade and Commerce Agency created an opportunity for local economic development organizations to develop a new role and to set bottom-up priorities for economic growth. This gave rise to promising public-private models that could adapt to market changes with greater speed and flexibility without a large agency staff and budget. The dismantling also left a void. With the programs now spread out among other agencies, no one person was in charge and no one could set or communicate a unified vision for the state's role in economic development. This diminished the state's ability to coordinate activity and shepherd resources, and to evaluate the overall effectiveness of the state's economic development efforts.

The Commission recommended that the state create a Governor's Office of Economic Development. Governor Schwarzenegger created the Governor's Office of Business and Economic Development through executive order in 2010. The office was codified through AB 29 (Pérez), which the Commission supported, in 2011. The Commission's recommendation was not to re-create an umbrella organization similar to the disbanded Technology, Trade and Commerce Agency, but rather to create a lean, high-profile office to serve as a coordinating entity with a well-publicized Web site and phone number. The Commission recommended the office be a credible networking operation, staffed with experienced and capable professionals.

Source: Daniel Hancock, Chairman, Little Hoover Commission. March 4, 2011. Letter to Governor Edmund G. Brown, Jr.

small group that includes all the key economic development entities in the administration.”¹³

The California Film Commission supports film, television and commercial productions with a variety of services, including production assistance and coordination, a digital location library and assistance with location searches, free online permitting and low-cost use of state properties as filming locations. The commission also administers a six-year, \$600 million tax credit program that targets productions most likely to leave the state. According to the commission’s executive director, moving into GO-Biz makes logical sense as the commission is committed to growing and retaining businesses and creating jobs.¹⁴

The Office of Tourism, often referred to as the Division of Tourism, was established through the California Tourism Marketing Act of 1995. The law authorized self-imposition of an assessment by businesses that benefit from travel and tourism and the establishment of Visit California, a non-profit, public benefit corporation to oversee the promotion of California tourism. Visit California is governed by the California Travel and Tourism Commission, which directs and approves a marketing plan, budget expenditures and the overall strategy for the Visit California staff. The commission has an annual budget of approximately \$50 million, nearly all of which is from the self-imposed industry assessment and is required by law to be spent on promoting tourism.

The Small Business Loan Guarantee Program provides loan guarantees to banks or other lenders that make loans to small businesses for revolving lines of credit, small loans and agricultural loans. The program provides an opportunity for a small business to not only obtain a loan it could not otherwise get, but to establish a favorable credit history with a lender so that the business can acquire further loans on its own.

The California Small Business Development Centers are part of the U.S. Small Business Administration’s national network of centers created in the late 1980s. Originally part of the Technology, Trade and Commerce Agency, the program split into six regions, administered by regional lead centers hosted by CSU Chico, CSU Humboldt, CSU Fullerton, UC Merced, Long Beach City College and Southwestern Community College. Since the establishment of GO-Biz, the Small Business Development Centers have worked closely with GO-Biz staff. Nearly half of all GO-Biz Web site inquiries are from small businesses. The leadership of the six regional centers expressed support for including the centers in the Governor’s plan. The Small Business Development Center program is recognized in state law in every state except California. According to the current state chair of the program, the Small Business Development

Center program not only brings \$12 million in federal funding to the state, the program is a tax revenue generation program.¹⁵

Potential next steps should include exploring the addition of the enterprise zone and the community development block grant program to the Governor's Office of Economic Development.

Business and Consumer Services Agency

The Governor's Reorganization Plan eliminates the State and Consumer Services Agency and establishes instead a new Business and Consumer Services Agency. Business services and housing entities from the Business, Transportation and Housing Agency would join consumer services from the State and Consumer Services Agency, which would be eliminated. The new agency would collect departments that regulate specific industries and businesses with departments that protect consumers, creating the potential to bring greater awareness in developing regulations to both the costs and benefits to businesses as well as the costs and benefits to consumers.

The Department of Consumer Affairs would grow as part of the reorganization, taking in the Department of Real Estate and the Office of Real Estate Appraisers, both of which become bureaus under the plan. The Department of Consumer Affairs also would be home to the Structural Pest Control Board, as well the Board of Chiropractic Examiners.

The Department of Corporations and the Department of Financial Institutions would combine to form a new Department of Business Oversight. The functions of the two former departments would remain separate, as divisions, though some administrative, budgeting, legislative and human resources activities could be combined, creating efficiencies in the near term.

The combination of departments in Business and Consumer Services creates the potential for greater standardization of similar oversight operations once best practices from departments previously in different agencies can be shared and, where appropriate, incorporated.

During the hearing on the proposal to create the new agency, stakeholders for the Department of Financial Services as well as the Department of Real Estate expressed concern about the potential to lose staff legal and regulatory expertise and the potential costs resulting from what they described as diminished status for their departments as they transitioned to bureaus or divisions within new departments.

The Commission notes the concern about the potential for diminished status, but finds that this concern is outweighed by potential gains in efficiency and accountability and that the proposed structures are better positioned to address the continuing evolution of the financial services and real estate brokerage industries than existing structures, both from the perspective of maintaining strong financial institutions and protecting consumers.

State and Consumer Services Agency Secretary Anna Caballero said that the professional staffs that represent core expertise for the departments to be merged would stay intact.

Specifically, real estate industry representatives questioned whether the new Bureau of Real Estate would be required to subcontract out its legal work to the Attorney General's office, as other units within DCA now do. Expertise creates its own, often intangible, efficiencies, and the complexities of real estate law require a sharp focus. DRE has used its own legal staff since the 1950s, and its 22 attorneys now initiate more than 1,100 actions every year. The administration testified that, despite moving to Consumer Affairs, DRE's experienced lawyers will continue to concentrate solely on real estate matters.

"The expertise of the individual, whether they're investigators or attorneys as part of the investigative team, is critically important, and there is no interest in taking them out of the specialist category and making them generalists," Secretary Caballero told the Commission. "They get funded by the fund, and they would continue to operate under that particular fund and to service that particular fund."¹⁶

The administration makes a logical case that the new Bureau of Real Estate properly fits under the umbrella of the Department of Consumer Affairs. DCA is home to 36 boards, bureaus, committees and commissions that license 2.5 million individuals and businesses in more than 250 professions. The Department of Real Estate's extensive regulatory and licensing functions – it currently issues about 425,000 licenses across the state – and its mission to "safeguard and protect the public interests" mirror the Department of Consumer Affairs' mandate to "protect and serve the interests of California consumers."

In their testimony before the Commission, both Denise Brown, director of the Department of Consumer Affairs, and William Moran, assistant commissioner of the Department of Real Estate, cited several potential areas of expected savings through the reduction of duplicative positions and the sharing of information and technology, including:

- Sharing with other DCA boards and bureaus the Department of Real Estate's five centers throughout the state that have the capability of conducting electronic examinations;
- Sharing a call center for enforcement with DCA;
- Sharing with other boards and bureaus the Department of Real Estate's sophisticated IT system designed to track enforcement cases;
- Reducing redundant positions in such offices as human resources, contracts, information technology, budget and administration.

Secretary Caballero told the Commission that the reorganization plan represented "the very initial stage of the process" and that she expected efficiencies to occur in the "out years."¹⁷ Director Brown said that the incoming departments bring with them their own administrative staffs that duplicate some of the functions already provided by the department, as well as more administrative workload. Still, Director Brown said she "believes this proposal would result in an overall reduction of personnel years and expenditures."¹⁸ The Board of Chiropractic Examiners and the Structural Pest Control Board, which moves over from the Department of Pesticide Regulation, already have interagency agreements with the Department of Consumer Affairs to provide such services as information technology.

The State Board of Chiropractic Examiners

The reorganization plan calls for moving the Board of Chiropractic Examiners (BCE) into the Department of Consumer Affairs. The board, created by initiative in 1922, voluntarily agreed in 1947 to place itself under administrative oversight of the Department of Professional and Vocational Standards, a DCA predecessor. In 1976, the Board of Chiropractic Examiners voted to separate from DCA, citing what it said was bias on the part of DCA concerning the chiropractic board and other larger boards, particularly those concerning the medical profession. The chiropractic board is independent and derives its funds from fees.

The Commission sees the merit in moving the board into the Department of Consumer Affairs, which already provides the board with information technology and personnel services.

The board's chair, Dr. Hugh Lubkin, told the Commission that only the board can decide, by vote, to move under an agency, as it did in 1947.¹⁹ The board, as well as the California Chiropractic Association and the International Chiropractic Association of California oppose the

reorganization plan, saying that The Chiropractic Initiative Act of 1922 does not grant the Legislature the authority to amend the initiative without voter approval.²⁰

It is not clear how the reorganization would interfere with the provisions of the 1922 initiative. What is not in doubt, however, is that the Governor appoints all members of the Board of Chiropractic Examiners – and with five positions open, he can now choose a majority that might be likely to support a transfer to DCA.

The Structural Pest Control Board

The Commission endorses the return of the seven-member Structural Pest Control Board to the Department of Consumer Affairs, from the Department of Pesticide Regulation in the Environmental Protection Agency, where it was moved in 2009. The board, created in 1935, is self-funded.

The reversal of the transfer is appropriate. The pest control board regulates businesses that apply pesticides and handles complaints from consumers about pest control companies. The board's physical office has not changed, despite its reassignment to the Department of Pesticide Regulation three years ago. While all indications are that the board functioned perfectly well after its move to pesticide regulation, its logical home is in the consumer-focused DCA.

The Office of Real Estate Appraisers

Under the plan, the Office of Real Estate Appraisers, now part of the Business, Transportation and Housing Agency, is abolished and re-established as the Bureau of Real Estate Appraisers in the Department of Consumer Affairs. The office is entirely funded by licensing fees. This is a shift that makes sense. Housed within DCA, the new Bureau of Real Estate Appraisers would have access to the department's larger pool of resources, including improved technology and skilled personnel, a point emphasized by Skip Ogle, chair of the California State Government Relations Subcommittee of the Appraisal Institute, when he testified before the Commission.²¹

Other Moves Simplify Structure, Add Clarity, Bolster Coordination

The proposal to move CalRecycle from the Natural Resources Agency to the California Environmental Protection Agency marks a homecoming of sorts for solid waste management functions previously performed by the

Integrated Waste Management Board, which had been located in CalEPA until 2009. The board was eliminated and its operations were merged with the Division of Recycling, which was part of the Department of Conservation in the Natural Resources Agency. CalRecycle's mission to regulate the recycling industry fits more appropriately in CalEPA. This mission includes protecting Californians from hazardous waste from recycling and landfill operations, whether through airborne dust or groundwater contamination from run-off. Locating CalRecycle in CalEPA increases opportunities for closer collaboration and coordination between CalRecycle and the Air Resources Board, the State Water Resources Control Board and the Department of Toxic Substances Control, all located in CalEPA. At this point, most of the CalRecycle staff already is located in the CalEPA building so no major relocation would be required.

Combining the activities of the California Housing and Community Development and the California Housing Finance Agency within the new Business and Consumer Services Agency would create the opportunity for the two entities to more formally continue their efforts to coordinate and cooperate over the past few years. The two entities share the same basic mission: To provide leadership, programs and policy direction to expand affordable housing opportunities for Californians.

The Department of Housing and Community Development uses policy tools, such as building codes and standards, as well as grants and subsidies. The finance agency works more directly in the financial markets, managing financial risk and taking on underwriting and transaction tasks.

The California Housing Finance Agency (CalHFA) has been an independent entity, created as the state's affordable housing bank. It is self-supported through the sale of tax-exempt revenue bonds that are independently rated and not included in the assessment of California's General Obligation bond debt. This insulates the state from the risks of the mortgage market, and allows the agency to both be more flexible and take on greater risk.

The reorganization keeps both entities intact, and CalHFA would retain its board structure and its outstanding bond debt (roughly \$8 billion); revenues for repaying it would be kept separate from the state's bond debt and General Fund. The combination of the two entities provides the opportunity to update the state's strategy to emerging needs and new conditions, including low mortgage loan demand and a surplus of single-family homes in some areas of the state combined with shortages in others.

While many details have yet to be worked out, this combination puts the state's affordable housing efforts on track for a timely strategic update.

Recommendations for Further Study

While the Commission recommends that the Legislature allow the Government Reorganization Plan to go forward, elements of the plan require Legislative attention to address concerns the Commission has. These issues focus mainly on the potential impact on independence and oversight resulting from various proposed changes. The components of the plan involved include the Delta Stewardship Council, the California Transportation Commission, the Public Employment Relations Board, the Department of Boating and Waterways and the Boating and Waterways Commission, The Office of Exposition Park, and the California Gambling Control Commission.

Delta Stewardship Council

The Governor's plan calls for moving the Delta Stewardship Council into the Natural Resources Agency, a move the administration said would allow routine administrative streamlining to simplify budget, personnel and other tasks. The council already is listed on the agency's letterhead and relies on various departments within the agency for routine administrative work. To a significant degree, such a move does not appear to adequately weigh the potential political costs that very likely could swamp any predicted administrative efficiencies.

The Legislature established the Delta Stewardship Council as an independent entity in recognition of the high level of distrust that had built up over the years because of state actions that raised deep concerns about the state's ability to adequately balance its responsibilities for environmental protection, flood control, resource management and deliveries of water through the State Water Project. The Council's seven members include four appointees of the Governor, one each by the Senate Rules Committee and Assembly Speaker, and the chair of the Delta Protection Commission.

Natural Resources Secretary John Laird said that nothing in the proposal would change the council's policy independence, and that other commissions noted for their policy independence, the California Coastal Commission and the Energy Commission, already exist in the agency.²² Others, however, disagreed, saying that different leadership at the agency and the council might produce different outcomes. Witnesses said that moving the Delta Stewardship Council into the Natural Resources Agency would at the very least undermine the appearance of independence at a

critical time in the council's work. This could create the potential to delay or derail the council's statutory obligation to develop a Delta Plan and slow progress in the already difficult process of developing a Bay Delta Conservation Plan.

"The history of California strongly suggests that if the statutory 'independence' of the Council has a role to play in resolving water and environmental conflicts, then it should be supported in appearance, as well as in substance and form," the council's chair, Phil Isenberg, told the Commission.²³

The Natural Resources Agency is home to two departments – the Department of Water Resources and the Department of Fish and Game – that play important roles in both plans, which require the approval of the Delta Stewardship Council. Stakeholders expressed the concern that locating the council in the agency would diminish the council's ability to act independently by putting it under an agency secretary and creating the potential for greater influence by departments whose actions might be subject to council appellate review.

"We believe that, over the long-term, the council's effectiveness would be compromised by placing the council in an existing agency. This can be seen in the long history of challenges that the Department of Fish and Game has faced in serving as an effective regulator of the State Water Project," Barry Nelson, a senior policy analyst with the Natural Resources Defense Council, told the Commission.²⁴

In 2005, Governor Schwarzenegger asked the Commission to analyze governance issues in the Delta and develop recommendations for moving forward. The Commission's report, "*Still Imperiled, Still Important*," described the failure of the CALFED process, and the structural weakness of the California Bay Delta Authority and recommended the creation of what became the Delta Vision Blue Ribbon Task Force. Based on a two-year process, the task force made a series of recommendations that included establishing an independent body that could take the place of the California Bay Delta Authority, then empowered to pursue the co-equal goals of restoring the Delta to environmental health and ensuring reliable water supply.

Water reform legislation passed in 2009 created the Delta Stewardship Council to develop a Delta Plan for achieving the statutory equal goals of ecosystem restoration and enhancement and water supply reliability. The council also has the role of determining whether state and local government actions are consistent with the plan. The council also serves as an appellate board for determining whether the plans and actions of the Department of Water Resources and the Department of Fish and

Game meet separate standards for endangered species protection established by state and federal law. Another key player is the State Water Resources Control Board. These agencies have at times found themselves at odds with each other and, more often, at odds with one stakeholder group or another.

In testimony to the Commission, Senator Joe Simitian, one of the authors of the 2009 water reforms, likened the level of animosity and distrust to that found in a bitter divorce: “Sometimes, feelings are fact.” For that reason, the statute creating the council was very clear on its independence, Senator Simitian said.²⁵

The council has the additional task of determining whether the Bay Delta Conservation Plan is consistent with the two goals and meets state and federal endangered species act requirements. The plan is designed to serve as the basis for a “take” permit – an environmental remediation plan to accommodate a given level of water exports through the Delta. Currently under discussion in the planning process are alternative conveyance systems, such as a tunnel or a canal, that could be used to avoid moving Sacramento River water through the Delta to pumps at the Delta’s southern end. One stakeholder group, Restore the Delta, said that in regard to the Bay Delta Conservation Plan, the council would be “fully compromised” by moving into the agency.²⁶

In 2010, the Commission studied improving state overall water governance and questioned whether the Delta Stewardship Council should be relocated. It was cautioned by experts that the new council needed to first establish itself and finish the Delta Plan, and to do so it needed to remain independent. The study, which urged the creation of a Department of Water Management, recommended moving the State Water Project into a separate, publicly owned entity, to improve the project’s operational efficiency and address environmentalists concerns that the department’s resource management mission came second to its water delivery mission.

In recommending that the reorganization be allowed to go forward, the Commission also recommends that the Legislature work with the administration to develop concurrent legislation to preserve the independence and credibility of the Delta Stewardship Council.

California Transportation Commission

The California Transportation Commission was created by the Legislature in 1978 as a result of a growing concern that the state lacked a single, unified transportation policy. It replaced four other boards. The independent, 11-member commission oversees and coordinates the

activities of the state's transportation sector, including planning and allocating money for the construction of highway, rail and transit improvements throughout California. It allocates billions of dollars in General Obligation bonds and other funds for transportation projects statewide. The commission advises both the Governor and the Legislature on transportation issues.

Nine CTC members are appointed by the Governor and confirmed by the Senate. The Senate Rules Committee and the Speaker of the Assembly appoint the other two members. Two ex-officio non-voting members are appointed by the Senate and the Assembly and are usually the chairs of the transportation policy committee in each house. The members serve staggered, fixed terms, giving the commission increased permanence across administrations and eliminating opportunities to politicize allocation decisions. The commission elects its own chair and vice chair and appoints an executive director who reports directly to the commission.

Although not everyone always agrees with the outcome of the California Transportation Commission's decisions, its process is often used as a model for transparency and it is generally regarded as an efficient, high-functioning commission. The Little Hoover Commission previously has held up the CTC as a model for both structure and process.

Unlike the proposed movement of the High-Speed Rail Authority into the Transportation Agency, about which no one raised concerns, the Commission did hear concerns about the potential loss of autonomy of the California Transportation Commission. In written and oral testimony to the Commission, James Ghielmetti, vice chair of the California Transportation Commission, said that the CTC "applauds the Governor's efforts to streamline government, make it more efficient, reduce unnecessary spending, and improve the management and coordination of government activities." He also indicated the CTC appreciates the Governor's attempt to put greater emphasis on transportation by creating a new agency with a much more focused mission. Mr. Ghielmetti did, however, add that he was generally concerned about the powers granted the agency secretary in the statutory language provided with the reorganization plan and indicated the most critical concern is related to the commission's independence and current statutory authority.

Local government and local transportation officials also commented about the potential loss of autonomy, some pointing to the significant influence exerted by an earlier administration to encourage the CTC to approve the Doyle Drive project in San Francisco as a public-private partnership. Mr. Ghielmetti told the Commission that at the time the issue was before the CTC, he was a Governor's appointee and as a result of his unwillingness to support the Doyle Drive project as a public-

private partnership, he was removed from the CTC, only to be reappointed less than a minute later by the Senate Rules Committee.

Others have said the Doyle Drive example shows that governors already have considerable influence through their appointing powers and the reorganization will not increase that influence. The proposed reorganization does not change the commission appointment process.

Mr. Ghielmetti indicated that the administration had assured the CTC members that the independence of the commission was a high priority for the Governor and the reorganization plan was not meant to alter the commission's independent function or its autonomy. In written testimony, he urged "the Governor and the Legislature to create a firewall to protect the independence of the Transportation Commission, both by letter and in spirit, so that potential ministerial and administrative conflicts can be avoided. The commission is ready and willing to be placed in the Transportation Agency so long as such separations of duties and the commission's autonomy are clearly articulated."

In supporting the plan's relocation of the California Transportation Commission into the new Transportation Agency, the Commission notes that the state has been well-served by the policy independence of the Transportation Commission and recommends that the Legislature consider Mr. Ghielmetti's request.

Public Employment Relations Board

The proposal to move the Public Employment Relations Board into the Labor and Workforce Development Agency raised similar concerns, and two labor organizations, the California School Employees Association and the California Labor Federation, an umbrella group, asked the Commission to oppose the move. The Public Employment Relations Board is an independent body responsible for administering the state's collective bargaining statutes covering public employees of the state government, public schools, colleges and universities. Among the board's responsibilities is to hear challenges to decisions proposed by staff. The board's decisions may be appealed but only under certain circumstances and then only to state appellate courts.

The board's five full-time members are appointed by the Governor and serve five-year terms. The board's 40 employees are not covered by collective bargaining agreements. The board offices are leased in a privately owned building rather than a state building to maintain its independence and preserve confidentiality regarding actions involving state agencies. Its \$6.2 million annual budget is supported entirely by the General Fund.

Labor representatives have expressed the concern that the board will suffer from an appearance of a conflict of interest if it moves under the Labor and Workforce Development Agency, particularly on board cases involving the agency or its departments.

Labor and Workforce Development Agency Secretary Marty Morgenstern said that the move is designed to streamline budgeting and administrative tasks, and that the agency will have no influence on policy matters or the board's authority. Secretary Morgenstern said the board would be treated no differently than are other boards in the agency, including the Agricultural Labor Relations Board, the Unemployment Insurance Appeals Board, the Workers Compensation Appeals Board, the Cal/OSHA Standards Board and the Commission on Health and Safety and Workers Compensation.

In a review of the 2002 reorganization that created the Labor and Workforce Development Agency, the Commission asked why the Public Employment Relations Board had been left out, after satisfying itself that other labor boards had been able to operate without political influence in their respective departments.²⁷ Based on the Commission's previous work and the testimony of Secretary Morgenstern, the Commission supports the proposal to move the Public Employment Relations Board into the Labor and Workforce Development Agency.

Boating and Waterways Commission

Under the plan, the Department of Boating and Waterways would become a division of the Department of Parks and Recreation, similar in standing to the Division of Off-Highway Motor Vehicle Recreation within the parks department. As part of the reorganization, the plan eliminates the seven-member Boating and Waterways Commission.

Boat owners, marina operators and city and county governments and law enforcement agencies have registered their opposition to the move, arguing that the Department of Boating and Waterways is a lean operation, is transparent in its activities and has been an effective partner in ensuring that boat ramps and marina facilities are in good repair, supporting local law enforcement, providing water safety instruction and helping fight beach erosion. In expressing their concerns during the hearing and through voluminous written communication, they said that the merger would remove the oversight provided by the Boating and Waterways Commission over how boater fuel tax revenues are spent, and risks having these revenues spent on parks projects less closely focused on those used exclusively by boaters or in support of waterway maintenance and public safety.

The department's \$67 million budget is supported by license and registration fees, as well as by tax revenues from sales of boat fuel. Since 1993, the department has shared boating fuel tax revenues with the Department of Parks and Recreation, with the bulk of the money going to Boating and Waterways until the 2002-03 fiscal year, when Parks and Recreation began receiving a larger share.

The boating fuel tax revenues are supposed to be used for boat ramp, marina and other boating-related activities in California state parks. In 1999-00, Boating and Waterways received \$33.5 million, while Parks and Recreation received \$11.6 million. In FY 2011-12, an estimated \$20 million was allocated to Boating and Waterways and \$26.6 million was allocated to Parks and Recreation. During that period, General Fund allocations to the parks department have steadily declined.

The administration told the Commission that the state will achieve savings by allowing the much larger 3,800-person parks department staff to take on administrative tasks, such as legal, legislative, human resources and budget work currently done by the 84-person Boating and Waterways staff. Resources previously devoted to these tasks could be freed up for boating programs, Secretary Laird told the Commission. The two departments already work together in planning for new facilities construction. In addition, boating fuel tax revenues fund operations at all state park marinas.

While the stakeholders of the Department of Boating and Waterways make a reasonable case for the effectiveness of the department, the Governor's plan does simplify the state's organizational structure and unites a greater number of recreational activities under one leader, which should improve coordination and communication and make it easier for state leaders to determine tradeoffs in setting spending and program priorities.

Secretary Laird told the Commission that the parks department has considerable experience in operating the Division of Off-Highway Motor Vehicle Recreation, running a distinct program that receives earmarked fuel tax funding for its eight state off-road recreation parks. This division and its programs have their own vocal constituency. It also has its own advisory commission that reports to the California Parks and Recreation Commission. This advisory commission is responsible for the approval of general plans, reviewing proposals for new or expanded recreation areas and hearing public comment about the program.

To allay concerns of diminished oversight and reduced focus on boating and waterway activities resulting from the proposed merger and elimination of the independent Boating and Waterways Commission, the

Legislature should work with the Governor to create an advisory body similar in function to the Off Highway Motor Vehicle Recreation Commission.

Office of Exposition Park

The African American Museum, opened in 1981 and moved to its own building in 1984 in time for the Los Angeles Olympics, has worked hard to establish its own profile, one separate from the California Science Center, in whose building the museum initially was housed. Both operations are located at Exposition Park, which also includes Los Angeles Memorial Coliseum.

Under the current structure, the museum is part of the science center's budget, as is the Exposition Park management office. The reorganization plan proposes creating a new Office of Exposition Park, which would oversee the science center, the museum and the park's management office. This new office would be transferred to the Natural Resources Agency as the reorganization would eliminate its present home, the State and Consumer Services Agency. Though it does not oppose the reorganization, museum management has expressed concern that the combination of moves would reduce the institution's public profile and erode progress made over the years in establishing the museum as a stand-alone entity. The California Legislative Black Caucus has suggested bill language that would retain the name State Science Center as the overall entity, rather than use the name of Office of Exposition Park. The Commission recommends that the Legislature give consideration to the caucus's suggestion.

California Gambling Control Commission

The reorganization plan calls for moving some functions for gaming regulation from the independent California Gambling Control Commission to the Bureau of Gambling Control within the Department of Justice. These two organizations monitor the operation and compliance of cardrooms and third-party providers, as well as some responsibilities related to class III casinos on tribal land. The regulatory activities and the operation of these establishments are governed by the Gambling Control Act of 1997, Governor's executive orders and a series of compacts between the state and Indian tribes. The commission's five members are appointed by the Governor. The bureau reports to the Attorney General.

Currently, the commission receives applications and fees for licenses for cardrooms, processes the applications and makes determinations on

whether licenses are granted, and makes recommendations on suitability of tribal gaming key employees, gaming resource suppliers and financial sources. In its auditing role, the commission conducts financial audits related to gambling revenues that flow into the General Fund or the Indian Gaming Special Distribution Fund, and it oversees the Revenue Sharing Trust Fund that is distributed among tribes.

The bureau's responsibilities include criminal background investigations of individuals and businesses that apply for state gambling licenses, and making recommendations to the Gambling Control Commission on their suitability; conducting compliance inspections of gambling operations and establishments; reviewing and approving gaming rules in cardrooms prior to their use; and registering non-profit organizations that plan to host charity fundraising events.

One witness told the Commission the "parallel system" that exists today "has created a diffusion of expertise, redundancy in functions, confusion among tribes and cardroom operators, and counterproductive competition between the CGCC and the Bureau."²⁸ Another observer, however, told the Commission that, as the system currently is working well, change is not warranted.²⁹

Under the reorganization plan, licensing and auditing functions currently performed by the California Gambling Control Commission would be shifted to the Bureau of Gambling Control in the Justice Department. The Commission would keep its policy-making role, establish regulations, approve licenses and monitor revenues to funds for which it is responsible.

Stakeholders contacted by the Commission described the commission and the bureau as having different cultures and taking different approaches to their regulatory tasks. One witness, attorney Tracey Buck-Walsh, observed that the bureau's expertise is derived from its roles in investigation, auditing and prosecution, while the commission's seems to stem from its work as an approval and control agency, and that "the effective regulation of gambling requires both."³⁰

The Bureau of Gambling Control's acting chief, Martin Horan, Jr. told the Commission that combining compliance, licensing and enforcement into one agency would streamline regulatory operations and reduce the number of visits to various gaming operations by state entities. As the bureau has offices throughout California, it is better positioned to perform field compliance and auditing work.³¹

In testimony to the Commission, Stephanie Shimazu, chair of the Gambling Control Commission, suggested steps the state should take to implement the proposed reorganization successfully:

- Regulations, executive orders and statutes will need to be rewritten to establish the new delineation of responsibilities and activities between the two agencies.
- Tribal gaming organizations would need to be notified of the changes, as required by the compacts, so that they are aware of which agencies are the official contacts for these roles.
- The Department of Finance and the Department of Personnel Administration would need to be engaged to analyze which staff would be transferred to the bureau and how many staff would be required to serve the Commission's constitutional and statutory roles.
- The commission and bureau should create a working group to determine the assignment of those duties not clearly delineated in the Governor's proposal.³²

Witness testimony and comments from tribal gaming officials suggest that the bureau would face a steep learning curve as it incorporates new administrative tasks involved in regulating sovereign tribes with its existing enforcement and investigation roles.³³ This transition would be helped by the transfer of gaming commission staff as long as their expertise and experience were tapped in developing a new, hybrid regulatory approach.

Interviews with tribal gaming officials, representatives of cardrooms and others with experience in the controlled gaming business urge the administration to move slowly and carefully as it proceeds with this shift in duties. To protect the gaming commission's independence and effectiveness, it will be important to preserve an appropriate level of staffing to support the commission's remaining policy and regulatory roles.

This reorganization of gaming regulation functions should open the door to exploration of the merits of a more comprehensive reorganization of gaming governance, including examination of the potential for combining under a single regulatory agency California horse racing, the state lottery as well as cardroom and casino-style gaming.

Conclusion

The structure of California's state government has not kept up with sweeping changes in how Californians live, work and travel. The current structure reflects conditions and priorities of decades past. Changes in society and in technology make it essential for California to modernize the enterprise of governing. The state's chronic revenue shortfalls make such a transition unavoidable, however difficult given the layers of regulation and processes devised to serve out-of-date demands.

Governor Brown's Government Reorganization Plan No. 2 responds to this need in an ambitious and long-overdue restructuring that combines similar functions that have been separated, pulling in stand-alone operations that will benefit from greater administrative support. Importantly, the reorganization creates three new agencies, enhancing their leaders' ability to focus the agencies' missions. This should provide greater transparency and accountability as well as the opportunity for improved program performance.

The Commission is particularly encouraged by the prospects presented by the new Transportation Agency, the Government Operations Agency and the Business and Consumer Services Agency as well as additions to the Governor's Office of Economic Development that would allow it to better serve Californians and create jobs.

The Commission understands that some parts of the reorganization may take several years before they produce measureable cost savings. But, as experts have repeatedly told the Commission, it is important to start. The Commission expects the administration to release further details of its planning for change as they are developed and urges the Legislature to closely track the administration's progress.

As noted, the Commission heard from witnesses who expressed concerns with several components of the plan that they believe could undermine the independence of stand-alone boards and commissions – in particular the Delta Stewardship Council and the California Transportation Commission. In the case of the Delta Stewardship Council, the Commission shares such concerns. In addition, the Commission believes the state is well-served by a state Chief Information Officer who has the authority to lead and direct cross-department advances in the state's employment of information technology and believes that the state Chief

Information Officer needs direct access to the Governor in these matters. The Commission urges the Governor and the Legislature to work together to address these concerns as the reorganization moves forward.

Appendices & Notes

- ✓ *Government Reorganization Plan No. 2*
- ✓ *California Government Code Sections 12080-12081.2*
 - ✓ *Public Hearing Witnesses*
 - ✓ *Notes*

Appendix A

Government Reorganization Plan No. 2



OFFICE OF THE GOVERNOR

March 30, 2012

Daniel W. Hancock, Chairman
Little Hoover Commission
925 L Street Sacramento,
CA 95814

Dear Chairman Hancock:

I am sending you this plan under Government Code section 8523 to reorganize state government. This plan is another step in my continuing efforts to streamline government, make **it** more efficient, and reduce unnecessary spending. Upon implementation, this plan will improve the management and coordination of government activities, which will facilitate further consolidations and cost savings.

Sincerely,


E Edmund G. Brown Jr.

Government Reorganization Plan Governor Edmund G. Brown Jr. 2012

The State's current organizational structure lacks cohesion and logical organization. For example, some agencies contain departments with unrelated missions, and some departments have programs that are similar to programs in other departments scattered throughout state government. This haphazard structure inhibits coordination and efficiency, and makes it difficult to identify programs with duplicative functions. Why, for example, should Caltrans, the Department of Managed Health Care, and the Department of Financial Institutions be part of the same agency? And why should the Department of Real Estate Appraisers be in a different agency than almost all other professional licensing entities? Confusing associations like these make little sense and both produce and obscure inefficiencies.

This government reorganization plan (GRP) goes a long way toward improving organizational relationships. It makes government more sensible and accessible, easier to manage, and more coordinated and efficient. In doing so, it will help government provide better and more cost-effective service.

Changes to Agencies

At the agency level, this GRP reduces the number of agencies from twelve to ten. This is accomplished by replacing five agencies with three.

- The responsibilities of the Business, Transportation, and Housing Agency will generally be shifted into two new agencies.
 - The business and housing portions will merge into the new Business and Consumer Services Agency.
 - The transportation portions will merge into the new Transportation Agency.
- The responsibilities of the State and Consumer Services Agency will generally be shifted into two new agencies.
 - The state service programs will merge into the new Government Operations Agency.
 - The consumer services portion will merge into the new Business and Consumer Services Agency.
- The Technology Agency will become a department under the new Government Operations Agency, although its head will remain the state-wide Chief Information Officer.
- The Emergency Management Agency will become an office directly reporting to the Governor.
- The Volunteer Program will become a unit within the Governor's Office of Planning and Research, with which it already shares an existing budgetary relationship.

The New Government Operations Agency

Major components of administering state operations, such as procurement, information technology, and human resources, are currently dispersed throughout government. Combining these and other operational programs into one agency will improve management and accountability, increase efficiency, and promote better and more coordinated operational decisions. It will also foster state-wide perspectives, improve communication and information sharing, and change cultures that prioritize control over service.

The new Government Operations Agency will include the following departments:

- General Services
- Human Resources (CaIHR)
 - Because CaIHR has a unique role in negotiating contracts with employee bargaining units and handling labor relations, this GRP ensures that the Director will report directly to the Governor on these Issues.
- Technology
 - The new Department of Technology retains state-wide authority to centralize and unify the State's information-technology projects. And its alignment with other administrative service programs will enhance its ability to develop, launch, manage, and monitor large informational-technology projects. By being in the same organizational structure as CaIHR, the department will be better able to address one of its greatest challenges: recruiting and retaining qualified information-technology professionals. This GRP also ensures that the department will direct and set state-wide information-technology policy by making its director the State's Chief Information Officer. The appointment of the director will be confirmed by the Senate.
- Office of Administrative Law
- Public Employees' Retirement System
- State Teachers' Retirement System
- State Personnel Board
- Government Claims Board

The Business and Consumer Services Agency

Entities that regulate or license industries, business activities, or professionals are currently spread throughout state government. Some entities regulating businesses are part of the current Business, Transportation and Housing Agency; some entities that license professionals are part of the State and Consumer Services Agency; and others overseeing other businesses and professionals are scattered throughout government, many with little shared structural relationship. Consolidating these entities into a new Business and Consumer Services Agency will improve service, consistency, and efficiency by facilitating shared administrative functions and expertise in areas such as automated systems, investigative practices, and licensing and

legal processes. It will also help the public more easily know where to get information about entities regulating the businesses and professionals that they have direct contact with. The Business and Consumer Services Agency will include the following departments:

- Consumer Affairs
 - Professional licensing functions will be further consolidated within the Department of Consumer Affairs (DCA), which provides administrative and executive services for boards and commissions regulating licensed professionals. The Department of Real Estate, the Office of Real Estate Appraisers, the Structural Pest Control Board, and the Board of Chiropractic Examiners will join the other licensing bureaus under the DCA to promote greater administrative efficiency, coordination, and uniformity.
- Housing and Community Development
 - This department will incorporate the functions of the Department of Housing and Community Development and the California Housing Finance Agency, which both assist in developing and financing affordable housing and administering general obligation bond programs. By merging these functions, the Department of Housing and Community Development will be better able to efficiently coordinate and address the State's housing needs.
- Fair Employment and Housing
- Alcoholic Beverage Control
- California Horse Racing Board
- Seismic Safety Commission
- Department of Business Oversight.
 - This new department will consolidate the State's oversight of financial businesses by merging the Department of Corporations (which has regulated a variety of financial entities such as securities brokers and dealers, financial planners, and mortgage lenders unaffiliated with banks) with the Department of Financial Institutions (which has regulated state-chartered banks, credit unions, and money transmitters).

The Transportation Agency

The State's transportation entities will be consolidated into one agency that will focus solely on California's transportation needs. Aligning these entities will facilitate more effective coordination in addressing the critical transportation issues the State will face in coming years. The new Transportation Agency will include the following departments:

- Transportation (Caltrans)
- Motor Vehicles
- High-Speed Rail Authority
- Highway Patrol

- California Transportation Commission
- Board of Pilot Commissioners.

Other Reorganizations

In addition to creating three new agencies, the GRP restructures other parts of the State's organization. These changes include consolidating and strengthening entities that promote economic growth, and better organizing other parts of the government.

- Last year, the Legislature created the Governor's Office of Business and Economic Development (GO Biz) to coordinate and promote business development and to encourage private-sector investment and job growth. Before Go Biz was created, programs to bring jobs to the State, enhance exports, and market California goods were dispersed in various areas of the government such as the Office of Economic Development, the Commission on Economic Development, the former Trade and Commerce Agency, and other entities

This GRP strengthens and expands Go Biz by incorporating into it other growth-promoting programs. These include the Infrastructure Bank, the Film Commission, the Tourism Commission, the Small Business Centers, and the Small Business Guarantee Loan Program. Consolidating these programs will strengthen GO Biz and give the state a stronger and more unified ability to promote and improve the State's economy.

- The Office of Traffic Safety distributes federal grants to the state and local entities. It will no longer be a stand-alone entity, but will instead be an office within and reporting to the Transportation Agency so that is aligned with transportation entities.
- The Public Employees Retirement Board will no longer be a stand-alone entity, but will instead be aligned with the Labor and Workforce Development Agency.
- The current system of gambling regulation duplicates administrative, investigative, and enforcement activities between the Gambling Commission and the Bureau of Gambling Control in the Division of Law Enforcement of the Department of Justice. While consolidating these functions in the Bureau of Gambling Control, this GRP ensures that the Gambling Commission retains its policy authority. This GRP also maintains the current arrangement of shared oversight over gambling activities between the Commission and the Attorney General.
- The Department of Resources, Recycling and Recovery (CaRecycle) will be transferred from the Natural Resources Agency to the California Environmental Protection Agency (EPA). Hazardous waste, electronic waste, used oil, used tires, and landfill permits are typically not considered "natural resources" but wastes. This program is better associated with the EPA, which regulates pollutants, than with the Natural Resources Agency, which does not.
- The functions of the Department of Boating and Waterways will transfer into a division in the Department of Parks and Recreation, similar to the Off-Highway Vehicle Recreation Division. Boating and Waterways already funds operations at all of the Department of Parks and Recreation's reservoirs, and they partner in constructing boating facilities. Because Boating and Waterways is being transferred to the Department of

Parks and Recreation, the California Boating and Waterways Commission will be eliminated, and its duties will be absorbed by the Department of Parks and Recreation. This GRP maintains the current requirements that boating fees are reserved for boating activities.

- The Delta Stewardship Council will transfer to the Natural Resources Agency. This will help improve communication and coordination regarding the State's water policies, and it will consolidate administrative functions.
- The Office of Exposition Park, which will include the California Science Center and the African American Museum, will also transfer to the Natural Resources Agency. Its current agency, the State and Consumer Services Agency, will no longer exist, and the mission and functions of Exposition Park are similar to those of state parks, which are already located within the Natural Resources Agency.

This GRP affects administrative and operational coordination and alignment, but it does not change the degree of policy independence held by remaining independent or quasi-independent boards, commissions, and similar entities.

Appendix B

California Government Code Sections 12080-12081.2

12080. As used in this article:

(a) "Agency" means any statewide office, nonelective officer, department, division, bureau, board, commission or agency in the executive branch of the state government, except that it shall not apply to any agency whose primary function is service to the Legislature or judicial branches of state government or to any agency that is administered by an elective officer. "Agency that is

administered by an elective officer" includes the State Board of Equalization but not a board or commission on which an elective officer serves in an ex officio capacity.

(b) "Reorganization" means:

(1) The transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency; or

(2) The abolition of all or any part of the functions of any agency; or

(3) The consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; or

(4) The consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; or

(5) The authorization of any nonelective officer to delegate any of his functions; or

(6) The abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of a reorganization plan will not have, any functions.

(7) The establishment of a new agency to perform the whole or any part of the functions of an existing agency or agencies.

(c) "Resolution" means a resolution of either house of the Legislature resolving as follows:

"That the _____ does not favor

(Assembly or Senate)

Reorganization Plan No. _____ transmitted to

(Insert number of plan)

the Legislature by the Governor on _____

(Insert date of transmittal)

and recommends that the plan be assigned to the

_____."

(Insert appropriate committee)

12080.1. The Governor, from time to time, shall examine the organization of all agencies and shall determine what changes therein are necessary to accomplish one or more of the following purposes:

(a) To promote the better execution of the laws, the more effective management of the executive and administrative branch of the state government and of its agencies and functions and the expeditious administration of the public business;

(b) To reduce expenditures and promote economy to the fullest extent practicable consistent with the efficient operation of the state government;

(c) To increase the efficiency of the operation of the state government to the fullest extent practicable;

(d) To group, consolidate and coordinate agencies and functions thereof as nearly as possible according to major purposes;

(e) To reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient operation of the state government;

(f) To eliminate overlapping and duplication of effort.

The Legislature declares that the public interest requires the carrying out of the purposes set forth in this section, and that such purposes may be accomplished more speedily and effectively under this article than by the enactment of specific legislation.

12080.2. Whenever the Governor finds that reorganization is in the public interest, he shall prepare one or more reorganization plans in the form and language of a bill as nearly as practicable and transmit each, bearing an identifying number, to the Legislature, with a declaration that, with respect to each reorganization included in the plan, he has so found. The delivery to both houses may be at any time during a regular session of the Legislature. The Governor, in his message transmitting a reorganization plan, shall explain the advantages which it is probable will be brought about by the taking effect of the reorganization included in the plan, and he shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function. Reorganization plans submitted to the Legislature pursuant to this section shall express clearly and specifically the nature and purposes of the plan or plans.

Upon receipt of a reorganization plan, the Rules Committee of the Senate and the Speaker of the Assembly shall refer the plan to a standing committee of their respective houses for study and a report. Such report shall be made at least 10 days prior to the end of the 60-day period described in Section 12080.5 and may include the committee's recommendation with respect to a resolution.

A resolution, by floor motion, as defined in subdivision (c) of Section 12080, may only be in order following a committee report or at any time during the last 10 days prior to the end of the 60-day period described in Section 12080.5. Such resolution shall be voted upon without referral to committee.

12080.3. Each reorganization plan transmitted by the Governor under this article:

(a) May change the name of any agency affected by a reorganization and the title of its head, and shall designate the name of any agency resulting from a reorganization and the title of its head.

(b) May include provisions, in accordance with Article VII of the California Constitution, for the appointment of the head and one or more other officers of any agency, including an agency resulting from a consolidation or other type of reorganization, if the Governor finds, and in his or her message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are in the public interest. The head may be an individual or a commission or board with two or more members. In any case, the appointment of the agency head shall be subject to confirmation by the Senate. The term of office of any appointee, if any is provided, shall be fixed at not more than four years. The Legislature shall fix the compensation of all department heads and officers who are not subject to Article VII of the California Constitution.

(c) Shall provide for the transfer of employees serving in the state civil service, other than temporary employees, who are engaged in the performance of a function transferred to another agency or engaged in the administration of a law, the administration of which is transferred to the agency, by the reorganization plan. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service.

(d) Shall provide for the transfer or other disposition of the personnel records and property affected by any reorganization.

(e) Shall provide for the transfer of unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by a reorganization, as the Governor deems necessary by reason of the reorganization, for use in connection with the functions affected by the reorganization or for the use of the agency that has these functions after the reorganization plan becomes effective. Transferred balances shall be used only for the purpose for which the appropriation was originally made.

(f) Shall provide for terminating the affairs of any agency abolished.

(g) Shall enumerate all acts of the Legislature that will be suspended if the reorganization plan becomes effective.

12080.4. No reorganization plan shall provide for, and no reorganization under this article shall have the effect of:

(a) Continuing any agency beyond the period authorized by law for its existence, or beyond the time when it would have terminated if the reorganization had not been made;

(b) Continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made;

(c) Authorizing any agency to exercise any function which is not expressly authorized by law to be exercised by an agency in the executive branch at the time the plan is transmitted to the Legislature;

(d) Increasing the term of any office beyond that provided by law for the office; or

(e) Abolishing any agency created by the California Constitution, or abolishing or transferring to the jurisdiction and control of any other agency any function conferred by the California Constitution on an agency created by that Constitution.

12080.5. Except as otherwise provided in this section, a reorganization plan submitted pursuant to this article shall become effective the first day after 60 calendar days of continuous session of the Legislature after the date on which the plan is transmitted to each house or at a later date as may be provided by the plan, unless, prior to the end of the 60-calendar-day period, either house of the Legislature adopts by a majority vote of the duly elected and qualified members thereof a resolution, as defined in subdivision (c) of Section 12080. As used in this section "60 calendar days of continuous session" shall be deemed broken only by an adjournment sine die, but in computing the 60 calendar days for the purposes of this provision days on which either house is not in session because of a recess of more than 10 days to a day certain shall not be included.

12080.6. No reorganization plan shall have the effect of limiting in any way the validity of any statute enacted, or any regulation or other action made, prescribed, issued, granted or performed in respect to or by any agency before the effective date of the reorganization plan except to the extent that the plan specifically so provides. As used in this section "regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

12080.7. No suit, action or other proceeding lawfully commenced by or against the head of any agency or other officer of the state, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any reorganization plan under the provisions of this article.

12080.8. From the effective date of a reorganization plan, and as long as it is in effect, the operation of any prior act of the Legislature inconsistent therewith shall be suspended insofar as it is inconsistent with the reorganization plan.

12080.9. Each reorganization plan which takes effect shall be printed in the same volume as the acts of the session of the Legislature to which it was submitted.

12081. The Legislative Counsel shall prepare for introduction not later than the next regular session of the Legislature occurring more than 90 days after that in which a Governor's reorganization plan takes effect a bill effecting such changes in the statutes as may be necessary to reflect the changes made by the reorganization plan. The purpose of this section is to insure that statutory law is amended to conform with the changes made by the reorganization plan, but failure to enact such a bill shall not affect the validity of the plan.

12081.1. It is the intention of the Legislature in delegating legislative power to the Governor by this article pursuant to the authorization contained in Section 6 of Article V of the California Constitution to retain the right of review of the Governor's action by means of action by either house of the Legislature recommending study of any proposal submitted to it.

12081.2. If any provision of this act or the application thereof, except Section 12080.5, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act, except Section 12080.5, are severable.

Appendix C

Public Hearing Witnesses

Public Hearing on Governor's Reorganization Plan April 23, 2012

Session 1: Overview of the Plan

Jim Humes, Executive Secretary for
Administration, Legal Affairs and Policy,
Office of the Governor

Session 2: Governor's Office of Business & Economic Development (GO-Biz)

Bill Davidson, Deputy Secretary,
Administration & Finance, Business,
Transportation & Housing on behalf of the
Small Business Guarantee Program

Priscilla Lopez, State Chair,
California Small Business
Development Centers

Stan Hazelroth, Executive Director,
Infrastructure Bank

Michael Rossi, Senior Jobs Advisor,
Office of the Governor

Amy Lemisch, Executive Director,
California Film Commission

Session 3: California Transportation Agency

Thomas Fellenz, Chief Counsel, California
High-Speed Rail Authority

Brian Kelly, Acting Secretary,
Business, Transportation and Housing Agency

James Ghielmetti, Vice Chair, California
Transportation Commission

Session 4: California Gambling Control Commission

Jacob Appelsmith, Executive Director,
Alcoholic Beverage Control, and former
Special Assistant to then-Attorney General
Edmund G. Brown Jr.

Bob Mukai, Deputy Attorney General and
Attorney, Indian and Gaming Law Section,
Department of Justice

Tracey Buck-Walsh, Attorney,
Law Office of Tracey Buck-Walsh

Jason Ramos, Chairman, Blue Lake Tribal
Gaming Commission

Marty Horan Jr., Acting Chief, Department of
Justice Bureau of Gambling Control

Stephanie K. Shimazu, Chair,
California Gambling Control Commission

Tina Littleton, Executive Director,
California Gambling Control Commission

**Public Hearing on Governor's Reorganization Plan
April 24, 2012**

Session 5: Business & Consumer Services Agency

Alex Alanis, Vice President, State Government Relations, California Bankers Association

Michael Lane, Policy Director, Non-Profit Housing Association of Northern California

Melissa Ameluxen, Director of State Government Affairs, California/Nevada Union Leagues

Ezra C. Levine, General Counsel, The Money Services Round Table, Morrison & Foerster

Teveia R. Barnes, Commissioner, Department of Financial Institutions

Susan (DeMars) Milazzo, Executive Director, California Mortgage Bankers Association

Keith P. Bishop, Partner, Allen Matkins Leck Gamble Mallory & Natsis LLP

William Moran, Assistant Commissioner, Enforcement, Department of Real Estate

Denise Brown, Director, Department of Consumer Affairs

Skip Ogle, Independent Appraiser

Anna M. Caballero, Secretary, State and Consumer Services Agency

Jan Lynn Owen, Commissioner, Department of Corporations

Claudia Cappio, Executive Director, California Housing Finance Agency

Linn Warren, Director, Department of Housing and Community Development

Brian Glanville, Chair, Royal Institution of Chartered Surveyors Americas

Stanley W. Wieg, Government Affairs, Staff Vice President, California Association of Realtors

Debbie Grose, President of the Financial Planning Association of Northern California, Financial Planning Association

Session 6: Government Operations Agency

Esteban Almanza, Chief Deputy Director, Department of General Services

Sue Johnsrud, Director, Operations, Office of the Governor

Suzanne Ambrose, Executive Officer, State Personnel Board

Julie Nauman, Executive Director, Victim Compensation & Government Claims Board

Debra Cornez, Director, Office of Administrative Law

Carlos Ramos, Secretary, California Technology Agency

John Thomas Flynn, Principal, Flynn, Kossick & Associates

David Rechs, Manager, CalHR Implementation Team, Department of Personnel Administration

Carol Henton, Vice President State and Local Government, TechAmerica

Session 7: Public Employment Relations Board

Les Chisholm, Division Chief,
Public Employment Relations Board

Jeffrey Freitas, Secretary-Treasurer,
California Federation of Teachers

Marty Morgenstern, Secretary,
Labor & Workforce Development Agency

**Public Hearing on Governor's Reorganization Plan
April 25, 2012**

Session 8: Delta Stewardship Council

Phil Isenberg, Chair,
Delta Stewardship Council

The Honorable Joe Simitian
Member of the California State Senate

John Laird, Secretary,
Natural Resources Agency

Tom Zuckerman, Advisor,
Central Delta Water Agency

Session 9: Boating & Waterways

Lucia C. Becerra, Acting Director,
Department of Boating and Waterways

Bryce W. Griffith, Director,
Tahoe Community Sailing Foundation Inc.

Jerry Desmond Jr., Director of
Government Regulations,
Recreational Boaters of California

Matthew Webb, Chair, California Boating
and Waterways Commission

Witnesses' written testimony, solicited written comments and comments submitted by members of the Legislature are available on the Commission's Web site at www.lhc.ca.gov. The Commission also received extensive written comments from interested parties. These comments are available for review at the Commission's office at 925 L Street, Suite 805, Sacramento, CA 95814.

Notes

1. California Government Code Section 12080.1.
2. California Government Code Section 12080.3.(e).
3. Office of Traffic Safety. Summer 2011. "OTS Tracks."
4. Will Kempton, Chief Executive Officer, Orange County Transportation Authority. April 18, 2012. Written testimony to the Commission.
5. Marty Wachs, Director, Transportation, Space and Technology, RAND Corporation. April 6, 2012. Personal communication.
6. California Government Code Section 14036.
7. California High-Speed Rail Authority. April 2012. California High-Speed Rail Program Revised 2012 Business Plan.
8. Sue Johnsrud, Director of Operations, Office of the Governor. April 18, 2012. Written testimony to the Commission.
9. Little Hoover Commission. June 2005. "Serving the Public: Managing the State Workforce to Improve Outcomes." Also, Little Hoover Commission. June 2011. "A Review of the Governor's Reorganization Plan to Unify and Streamline the California State Personnel System."
10. Little Hoover Commission. November 2000. "Better.Gov: Engineering Technology-Enhanced Government." Also, Little Hoover Commission. December 2004. "Historic Opportunities: Transforming California State Government." Also, Little Hoover Commission. May 2005. "Reconstructing Government: A Review of the Governor's Reorganization Plan to Create A Department of Technology Services." Also, Little Hoover Commission. November 2008. "A New Legacy System: Using Technology to Drive Performance." Also, Little Hoover Commission. March 2009. "A Review of the Governor's Reorganization Plan to Consolidate Information Technology Functions."
11. Daniel Hancock, Chairman, Little Hoover Commission. March 4, 2011. Letter to Governor Edmund G. Brown, Jr.
12. Stanton Hazelroth, Executive Director, Infrastructure and Economic Development Bank. April 11, 2012. Personal communication to the Commission.
13. Stanton Hazelroth, Executive Director, Infrastructure and Economic Development Bank. April 23, 2012. Written testimony to the Commission.
14. Amy Lemisch, Director, California Film Commission. April 23, 2012. Written testimony to the Commission.
15. Priscilla Lopez, State Chair, California Small Business Development Centers, and Regional Director, Orange County/Inland Empire SBDC Network. April 23, 2012. Written testimony to the Commission.
16. Anna M. Caballero, Secretary, State and Consumer Services Agency. April 24, 2012. Testimony to the Commission.
17. Anna M. Caballero. See endnote 16.
18. Denise Brown, Director, Department of Consumer Affairs. April 24, 2012. Written testimony to the Commission.
19. Dr. Hugh Lubkin, Chair, Board of Chiropractic Examiners. April 24, 2012. Testimony to the Commission.

20. Board of Chiropractic Examiners. April 24, 2012. Written testimony to the Commission. Also, California Chiropractic Association. April 24, 2012. Written testimony to the Commission. Also, International Chiropractic Association of California. April 24, 2012. Written testimony to the Commission.
21. Luther H. “Skip” Ogle, Chair, California State Government Relations Subcommittee, Appraisal Institute. April 24, 2012. Testimony to the Commission.
22. John Laird, Secretary, California Natural Resources Agency. April 25, 2012. Written testimony to the Commission.
23. Phil Isenberg, Chair, Delta Stewardship Council. April 23, 2012. Testimony to the Commission.
24. Barry Nelson, Senior Policy Analyst, Natural Resources Defense Council. April 16, 2012. Written testimony to the Commission.
25. Senator Joe Simitian. April 25, 2012. Testimony to the Commission.
26. Barbara Barrigan-Parrilla, Executive Director, Restore the Delta. April 19, 2012. Letter to Commission Chairman Daniel Hancock.
27. Little Hoover Commission. April 2002. “Only A Beginning: The Proposed Labor & Workforce Development Agency.” Review of Government Reorganization Plan.
28. Jacob Appelsmith, former Senior Advisor to the Governor. April 16, 2012. Written testimony to the Commission.
29. John N. Roberts, Deputy Commissioner, San Manuel Band of Mission Indians Tribal Gaming Commission. April 20, 2012. Letter to the Commission.
30. Tracey Buck-Walsh, Attorney, Law Office of Tracey Buck-Walsh. April 16, 2012. Written testimony to the Commission.
31. Marty Horan Jr., Acting Chief, Department of Justice Bureau of Gambling Control. April 18, 2012. Written testimony to the Commission.
32. Stephanie K. Shimazu, Chairperson, California Gambling Control Commission. April 16, 2012. Written testimony to the Commission.
33. John N. Roberts. See endnote 29.

Little Hoover Commission Members

CHAIRMAN DANIEL W. HANCOCK (*D-San Ramon*) Appointed to the Commission by Assembly Speaker Cruz Bustamante in July 1997. Reappointed by Assembly Speaker Robert M. Hertzberg in January 2001, by Speaker Fabian Núñez in March 2006 and by Speaker Karen Bass in January 2009. Former president of Shapell Industries of Northern California. Chairman of the Commission since March 2007.

VICE CHAIRMAN DAVID A. SCHWARZ (*R-Beverly Hills*) Appointed to the Commission by Governor Arnold Schwarzenegger in October 2007 and reappointed by Governor Schwarzenegger in December 2010. Partner in the Los Angeles office of Irell & Manella LLP and a member of the firm's litigation workgroup. Former U.S. delegate to the United Nations Human Rights Commission.

ASSEMBLYMEMBER KATCHO ACHADJIAN (*R-San Luis Obispo*) Appointed to the Commission by Speaker of the Assembly John Perez in July 2011. Elected in to the 33rd Assembly District, in November 2010. Serves as vice chairman of the Assembly Committee on Banking and Finance.

MARILYN C. BREWER (*R-Newport Beach*) Appointed to the Commission by Governor Arnold Schwarzenegger in October 2006 and reappointed by Governor Schwarzenegger in December 2010. Recently served as a commissioner on the Orange County Transportation Authority. From 1994 to 2002, represented the 70th Assembly District in the California State Assembly.

VIRGINIA ELLIS (*D-Sacramento*) Appointed to the Commission by the Senate Rules Committee in January 2011. Former Sacramento bureau chief for the Los Angeles Times.

JACK FLANIGAN (*R-Granite Bay*) Appointed to the Commission by Governor Edmund G. Brown, Jr. in April 2012. A member of the Flanigan Law Firm. Co-founded California Strategies, a public affairs consulting firm, in 1997.

ASSEMBLYMEMBER ALYSON HUBER (*D-El Dorado Hills*) Appointed to the Commission by Assembly Speaker John Pérez in March 2010. Elected to the 10th Assembly District in 2008 to represent all of Amador County and portions of Sacramento, El Dorado and San Joaquin counties.

LOREN KAYE (*R-Sacramento*) Appointed to the Commission by Governor Arnold Schwarzenegger in March 2006 and reappointed by Governor Schwarzenegger in December 2010. President of the California Foundation for Commerce and Education. Former partner at KP Public Affairs. Served in senior policy positions for Governors Pete Wilson and George Deukmejian, including cabinet secretary to the Governor and undersecretary for the California Trade and Commerce Agency.

TOM QUINN (*D-Marina del Rey*) Appointed to the Commission by Governor Edmond G. Brown, Jr. in February 2012. Currently chairman and CEO of City News Services Inc., managing partner of Sierra Investments, president of Americom Broadcasting and chairman of Reno Media Group.

SENATOR MICHAEL J. RUBIO (*D-East Bakersfield*) Appointed to the Commission by the Senate Rules Committee in February 2011. Elected to the 16th Senate District in November 2010.

JONATHAN SHAPIRO (*D-Beverly Hills*) Appointed to the Commission by the Senate Rules Committee in April 2010. Writer and producer for NBC, HBO and Warner Brothers. Former chief of staff to Lt. Governor Cruz Bustamante, counsel for the law firm of O'Melveny & Myers, federal prosecutor for the U.S. Department of Justice Criminal Division in Washington, D.C., and the Central District of California.

MARK VARGAS (*D-Los Angeles*) Appointed to the Commission by Speaker of the Assembly John Perez in February 2012. Currently president of Mission Infrastructure. Currently a member of the boards of the California YMCA Youth & Government Model Legislature and Court, Inland Action and Grand Performances.

SENATOR MARK WYLAND (*R-Escondido*) Appointed to the Commission by the Senate Rules Committee in February 2011. Elected to the 38th Senate District in 2006 and re-elected in November 2010.

“Democracy itself is a process of change, and satisfaction and complacency are enemies of good government.”

*Governor Edmund G. “Pat” Brown,
addressing the inaugural meeting of the Little Hoover Commission,
April 24, 1962, Sacramento, California*